

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

706C0862

HOUSE BILL NO. 1276

Introduced by: Representatives Kooistra, Clark, and Fitzgerald and Senator Whiting

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding civil liability as it
2 relates to injuries caused by intoxicated minor persons.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 35-4-78 be amended to read as follows:

5 35-4-78. No licensee may sell any alcoholic beverage:

6 (1) To any person under the age of twenty-one years; or

7 (2) To any person who is obviously intoxicated at the time.

8 A violation of this section is a Class 1 misdemeanor.

9 A licensee may be civilly liable to any injured person or the person's estate for any injury
10 suffered, including any action for wrongful death, or property damage suffered, because of the
11 intoxication of any person under the age of twenty-one due to the sale of any alcoholic beverage
12 in violation of subdivision (1) of this section.

13 However, no licensee is civilly liable to any injured person or ~~his~~ the person's estate for any
14 injury suffered, including any action for wrongful death, or property damage suffered, because
15 of the intoxication of any person over the age of twenty-one due to the sale of any alcoholic
16 beverage in violation of ~~the provisions~~ subdivision (2) of this section.

17 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Any licensee that sells alcoholic beverages to any person under twenty-one years of age is
3 civilly liable for the death or injury of any person, or damage to any property, if the sale of
4 alcoholic beverages to a person under the age of twenty-one constitutes the proximate cause of
5 the death, injury, or property damage.

6 Section 3. That § 35-11-1 be amended to read as follows:

7 35-11-1. The Legislature finds that the consumption of alcoholic beverages by a person over
8 the age of twenty-one, rather than the serving of alcoholic beverages to a person over the age
9 of twenty-one, is the proximate cause of any injury inflicted upon another by an intoxicated
10 person over the age of twenty-one. Therefore, the rule in Walz v. City of Hudson, 327 N.W. 2nd
11 120 (S.D. 1982) is hereby abrogated in part.